

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of)	
)	
Revision of the Public Notice Requirements)	MB Docket No: 05-6
of Section 73.3580)	
)	
)	

**COMMENTS OF
OFFICE OF COMMUNICATION OF THE UNITED CHURCH OF CHRIST, INC., THE
NATIONAL HISPANIC MEDIA COALITION, THE CAMPAIGN LEGAL CENTER,
MEDIA ACCESS PROJECT, BENTON FOUNDATION, CHICAGO MEDIA ACTION,
AND FREE PRESS**

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SUMMARY

The Office of Communication of the United Church of Christ, the National Hispanic Media Coalition, the Campaign Legal Center, Media Access Project, the Benton Foundation, Chicago Media Action, and Free Press (“UCC *et al.*”) applaud the Commission’s recognition that it should strengthen its rules regarding the public notice that station owners must give when they apply to transfer their broadcast station license. As ownership influences station programming, the public has a real interest in being made aware of when ownership of a local broadcast station is going to change. While the Commission’s proposal is a strong move in a positive direction, UCC *et al.* note certain other steps that the Commission should take to make the proposed rule change even more potent.

Public notice is important, but its value is marginalized if local listeners or viewers cannot easily access information about or voice their opinions of the proposed sale. Although the Commission’s proposal directs the public to the FCC website to obtain more information about station sale applications, the current website is extremely difficult for a lay-person to navigate. Therefore, UCC *et al.* strongly urge the Commission to create a specific website that would be a comprehensive portal where listeners and viewers could inform themselves about the station sale process, access station sale applications, and submit comments on or objections to a proposed sale.

Further, a notice announcement is only effective if listeners or viewers are given appropriate information in a clear and understandable manner. As such, UCC *et al.* support the Commission’s proposal to require station owners to use specific text in their public notice announcements, but suggests slight modifications to the proposed text in order to increase the notice’s impact. Additionally, the Commission should take steps to maximize the number of

listeners or viewers reached by the notice, such as increasing the frequency with which the public notice is given and requiring that stations give notice in all languages in which they broadcast.

Strengthening the non-broadcast component of the public notice rules is another important way to ensure that as many members of the public as possible are informed about proposed station sales. Accordingly, UCC *et al.* support the Commission's proposal to limit the types of stations exempted from the newspaper notification rules. Further, as the Internet is an increasingly important source of information, the Commission should require station owners to post notice of a proposed station sale on their websites.

Finally, it is important to note that station sales are not the only transactions in which the public has an interest. Indeed, the portion of the FCC's rules that the Commission's proposal addresses, Section 73.3580, contains local public notice requirements for *all* broadcast applications. Improvements to the station sale public notice requirements, while important, only address one aspect of a broader picture. Therefore, the Commission should extend its modifications to applicants for new construction permits and broadcast license renewals.

In sum, UCC *et al.* commend the Commission for proposing to address deficiencies in its current public notice requirements. We urge the Commission to go further in strengthening these vital rules, in order to truly maximize public participation in the broadcast licensing process.

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The Office of Communication of the United Church of Christ, the National Hispanic Media Coalition, the Campaign Legal Center, Media Access Project, the Benton Foundation, Chicago Media Action, and Free Press (“UCC *et al.*”), by their attorneys, the Institute for Public Representation, respectfully submit these comments in response to the Federal Communication Commission’s (FCC or Commission) *Notice of Proposed Rulemaking, Revision of the Public Notice Requirements of Section 73.3580*, MB Docket No. 05-6 (rel. Mar. 15, 2005) (*NPRM*).

UCC *et al.* have a long history of representing or advocating for broadcast viewers and listeners participation in FCC license proceedings. For example, in 1969, UCC successfully argued that members of the public have a right to intervene and offer evidence to help the FCC build a complete record in a license proceeding.¹ NHMC advocates to improve the image of Hispanic-Americans as portrayed by the media and to increase the number of Hispanic-Americans employed in the media industry. To date, the NHMC has filed more than 100 petitions with the FCC to deny the licenses of radio and television stations nationwide. Thus,

¹ *Office of Communication of the United Church of Christ, Inc. v. Federal Communications Commission*, 425 F.2d 543, 546-47 (D.C.Cir. 1969).

UCC *et al.* are interested in offering proposals to strengthen public notice requirements when a license is transferred in order to keep the organizations and their members informed of license proceedings in their communities.

Broadcast station ownership is an issue of great importance to listeners and viewers. The Commission has repeatedly recognized the connection between station ownership and the editorial viewpoint of the station,² the quantity of local news and public affairs programming,³ and the quality of local broadcast service.⁴ Recognizing that the public has a substantial interest in being informed of when the ownership of a station is going to change hands, the Commission requires licensees to broadcast and publish public notice of any proposed license assignments and transfers of station control (“station sales”).⁵ However, as the Commission notes in the present NPRM, current public notice announcements suffer from various shortcomings, such as containing too much information about complex corporate ownership structures, using highly technical terminology, and failing to advise members of the public of their opportunity to comment on or object to proposed sales.⁶

In light of these shortcomings, the Commission has proposed various steps to strengthen its public notice rules: requiring the use of specific notice language; informing the public how to file comments; and limiting exemptions from the newspaper publication requirement.⁷ As discussed below, the UCC and NHMC support many of these proposed rule changes. However,

² See, e.g., *Review of the Commission’s Regulations Governing Television Broadcasting*, Report & Order, 14 FCC Rcd. 12903, 12915 ¶23 (1999).

³ See, e.g., *Broadcast Localism*, Notice of Inquiry, 19 FCC Rcd. 12425, 12427 ¶5 (2004) (“*Broadcast Localism*”); *2002 Biennial Regulatory Review*, Report & Order and Notice of Proposed Rulemaking, 18 FCC Rcd. 13620, 13627 ¶20 (2003) (*2002 Biennial Order*).

⁴ See, e.g., *Revision of the Public Notice Requirements of Section 73.3580*, Notice of Proposed Rulemaking ¶3 (2005) (“*NPRM*”).

⁵ See generally 47 C.F.R. §73.3580.

⁶ See *NPRM* ¶3.

⁷ See generally *NPRM*.

the benefits of these changes are marginalized if listeners or viewers cannot easily access information about the sale or quickly file their comments or objections with the Commission. Accordingly, the Commission should develop a comprehensive website containing the relevant information about the station sale process, to ensure that “listeners and viewers will have a meaningful opportunity to participate in the license assignment process.”⁸

I. THE COMMISSION SHOULD FURTHER STRENGTHEN ITS PUBLIC NOTICE PROCESS BY DEVELOPING A COMPREHENSIVE WEBSITE CONTAINING INFORMATION ABOUT STATION SALES

The Commission should utilize the web to allow the public to dynamically participate in the station sale proceedings. The NPRM is a move in the right direction, as it proposes language that directs members of the public to the FCC website for the purpose of accessing the station sale application.⁹ However, pointing people to the current FCC website creates a problem—navigating the website to find applications and to file objections is a complicated process, making it difficult for members of the general public to inform themselves or express their views. To remedy this, the Commission should develop a website that is a comprehensive portal containing everything a listener or viewer would need to participate in the station sale process. This website could be modeled after sites that the Commission has already developed, such as the Commission’s “Parent’s Place” website (<http://www.fcc.gov/parents>)¹⁰ or “DTV” website (www.dtv.gov).¹¹

⁸ *Id.* at ¶3.

⁹ *Id.* at ¶5.

¹⁰ This site contains general information on children’s TV rules, links to additional resources, an interactive map to look up children’s programming in their area, and information on how to file a complaint.

¹¹ This site contains background information about DTV, regulatory information regarding the DTV transition, and consumer FAQs.

While station sale application information is currently accessible online through the Commission's CDBS site, the site is not user-friendly. More specifically, while a trained lawyer or paralegal may be able to utilize CDBS, members of the general public almost certainly cannot. As an initial matter, entering the CDBS public access site from www.fcc.gov/e-file, the site given in the NPRM, is difficult. On the FCC website, the term "CDBS" only appears in parentheses at the end of the system's full name (Broadcast Radio and Television Electronic Filing System), and a user would have to know to click the set of links at the end of the descriptive paragraph (CDBS Public Access Link) instead of those at the beginning. Even if a person successfully accesses CDBS and attempts to enter the station's call sign,¹² there is no consistent call sign format to be used in searches. For example, a person searching for WJHL, the CBS affiliate in Johnson City, TN, would have to type "WJHL-TV" into the "call sign" text box; typing only "WJHL" without the "-TV" extension returns no results. However, a person searching for WUSA, the CBS affiliate in Washington, DC, would have the exact opposite experience—typing "WUSA-TV" returns no results, while typing "WUSA" properly locates the station application information. Finally, even if the person happens upon the correct call sign to enter, the results list gives no indication of which result is the actual station sale application.¹³ For example, WJHL-TV's application results list contains more than twenty separate entries, many of them posted around the same time. A person would have no idea which application is the relevant application for station sale. These are just a few illustrations of the deficiencies of

¹² The CDBS search screen contains other search terms, such as "facility identifier" and "file number." However, the station's call sign is the search term a person would most likely rely on, as it is the only identifying information given in the notice announcement.

¹³ The results list contains only the file number, notation of whether the application was filed on paper or electronically, the station call-sign, the facility ID number, the type of service the station provides, the status of the application, and a link to the application. Nothing in the results list indicates the application type (application for station sale, application for license renewal, etc.).

the current system. A new, easy to use website could remedy these problems and make accessing application information much more straightforward.

The new station sale website should be easily accessible, either by creating a “stand-alone” web address (something similar to the Commission’s “www.dtv.gov”) or making a clear link to the site from the FCC homepage. Members of the public should be able to quickly and easily determine if there is a station sale pending in their area. For example, an interactive map could allow people to click on their local area to view pending station sales;¹⁴ people could enter their zip code (or other identifying information) to view pending sales; and/or people could enter their home location and email address in order to be notified about current or future sales. In addition, the website should contain background information about station sales, including information on how the approval process works and how members of the public can express their views. It should also contain background information on the parties to the sale, including the station sale application, the station’s EEO filings, and the station’s ownership reports. Finally, the site should allow people to comment or object directly from the website and should provide easy to understand instructions on how and when to file comments, informal objections, and petitions to deny.¹⁵ Such a comprehensive site would truly open up the station sale process to the public, allowing them quick and easy access to all relevant information.

¹⁴ The map could be similar to the map contained on the FCC’s “Parent’s Place” website (<http://svartifoss2.fcc.gov/prod/kidvid/prod/q5usmap.htm>).

¹⁵ This portion of the site could be modeled generally after the FCC’s Localism Task Force website (<http://www.fcc.gov/localism>). This site allows people to file comments online and also contains information on public participation in the license renewal process and on filing documents with the Commission. In addition, the FCC’s “Filing a Complaint” site (<http://www.fcc.gov/cgb/complaints.html>), which contains information on how to draft and file complaints, could be referenced in designing this portion of the new website.

II. THE COMMISSION SHOULD PRESCRIBE CLEAR, CONCISE, AND INFORMATIVE LANGUAGE FOR LICENSEES TO USE IN GIVING PUBLIC NOTICE OF PROPOSED STATION SALES

While the Commission's rules direct licensees to give public notice of proposed station sales and set forth various information that must be communicated, there is currently no "script" that the notice must follow.¹⁶ Codifying the specific text that applicants must use is important because public notice is nearly meaningless if the actual announcement is not clear, concise, and informative. UCC *et al.* agree with the Commission's point that "the public may not understand the information which buyers and sellers now provide in print and broadcast notices," and echo the concern that "the required public notice does not advise the public of the opportunity to file comments, petitions to deny, or informal objections."¹⁷ Accordingly, UCC *et al.* support the Commission's proposal to require specific notice language and include in that language information about filing comments and objections and how to access station sale applications online.¹⁸ However, the public notice will be even more effective if the notice language includes additional information to help the public assess whether a new owner will meet its obligation to serve the "public interest." Moreover, to reach all members of the general public, the Commission should ensure that stations broadcasting in a foreign language give notice in that language. Finally, in order to maximize the effectiveness of the broadcast announcements, the Commission should increase the number of announcements that a licensee must make.

¹⁶ See 47 C.F.R. §73.3580(f). Note that the Commission currently requires specific public notice language be used by applicants for both license renewals and new Class A television licenses. See 47 C.F.R. 73.3580(d)(4) and (d)(5).

¹⁷ NPRM ¶3.

¹⁸ *Id.* at ¶5.

A. The Public Notice Language Should Be Easy To Understand And Include Clear Information Relevant To The Public's Participation In The Station Sale Process

The central purpose of the public notice requirement should be to give local citizens all relevant information needed to evaluate the real impact of the proposed sale on their community without making the announcement overly complicated. The public notice is intended to “ensure that listeners and viewers will have a meaningful opportunity to participate in the license assignment process.”¹⁹ The current rules and the Commission’s proposal include information about which station will be sold, who the proposed buyer and seller are, and how to access a copy of the application.²⁰ The Commission’s proposal also includes information meant to advise the public on how to comment on or object to the applications.²¹ UCC *et al.* strongly support this proposal, as the value of the public notice announcement is substantially diminished if the public does not know how to respond to a proposed sale. However, the notice ought to include additional relevant information, presented in a clear and concise manner, to ensure that public notice announcements accomplish the Commission’s goal of “promot[ing] public participation in the broadcast licensing process.”²² Accordingly, we propose specific notice language that builds on the language proposed by the Commission in the NPRM. This language is attached as an Appendix to these comments.²³

First, the notice language ought to include whether the proposed buyer is a local entity. The Commission recently stated its “overarching goal of establishing and maintaining a system of local broadcasting that is responsive to the unique interests and needs of individual

¹⁹ *Id.* at ¶3.

²⁰ *See* 47 C.F.R. §73.3580(f), *NPRM* ¶5.

²¹ *NPRM* ¶5.

²² *Id.* at ¶3.

²³ *See* Appendix.

communities.”²⁴ One simple way to help maintain such a system is to inform the public when a non-local entity seeks to buy a broadcast station. This allows the public an opportunity to express their views on whether such an owner would be responsive to their local community needs and interests.

In addition, the notice language should include information about other media outlets that the proposed buyer already owns. Media concentration remains an important concern—as the Commission stated in its recent review of its ownership rules, “outlet ownership can be presumed to affect the viewpoints expressed on that outlet.”²⁵ Thus, as with information about whether the proposed buyer is local, information about local media concentration is highly relevant to allowing the members of the public to form a complete opinion of—and thus craft more precise comments about or objections to—a proposed station sale.

Moreover, a proposed buyer should be required to disclose whether it is applying for a waiver of the Commission’s ownership rules in order to purchase the station. The ownership rules “serve[] the public interest by promoting diversity of program and service viewpoints, as well as by preventing undue concentration of economic power.”²⁶ The corollary of this is that a transaction that does not conform to the ownership rules presumably does *not* serve the public interest. Thus members of the public have a particular need to know when a buyer is attempting

²⁴ *Broadcast Localism* at ¶4. In addition, the Commission recently spearheaded a localism initiative, including a “Localism Task Force,” that was designed to help promote localism in television and radio broadcasting. See <http://www.fcc.gov/localism/>.

²⁵ *2002 Biennial Order*, 18 FCC Rcd. at ¶27. On appeal, the Third Circuit affirmed this finding, noting that “ample evidence supported [the Commission’s] conclusion that ownership can influence viewpoint.” *Prometheus Radio Project v. FCC*, 373 F.3d 372, 401 (3d Cir., 2004). See also *id.* at 383 (“[T]he Commission has long acted on the theory that diversification of mass media ownership serves the public interest by promoting diversity of program and service viewpoints, as well as by preventing undue concentration of economic power.”) (quoting *FCC v. Nat’l Citizens Comm. for Broad.*, 436 U.S. 775, 780 (1978) (“*NCCB*”)).

²⁶ *Prometheus*, 373 F.3d at 383 (quoting *NCCB*, 436 U.S. at 780).

to make a purchase that would not be permitted under the rules without a waiver.²⁷ Indeed, the Commission has specifically stated that it is important to “develop the fullest record possible” in waiver proceedings;²⁸ informing the public of a waiver request will help gather the data needed for the Commission to properly determine if such a request is in the public interest.

In addition to the above recommendations, *UCC et al.* support the Commission’s proposal not to include the names of all partners, officers, directors, and major shareholders in the notice language.²⁹ As the Commission recognized, “[c]omplex ownership structures and transactions can substantially increase the amount of information provided in these announcements, and with it, the potential for confusion by the public.”³⁰ However, basic information about the parties, such as the licensee names and the names of the licensees’ parent companies, is important to the public’s evaluation of the proposed station sale. Thus, the notice language should include names of licensees and corporate entities in the ownership chain. In addition, the notice should make the public aware that more detailed information about the parties’ corporate structure is contained on the station sale application,³¹ accessible in hard copy

²⁷ *UCC et al.* note there is a related problem: the Media Bureau’s daily public notice, listing newly tendered and accepted broadcast applications, does not indicate when the applicant is requesting a waiver of the Commission’s ownership rules nor does it always indicate when an order has been granted. Because of this omission citizens are unaware of important and potentially precedent setting cases unless and until the order is published. This in turn, obstructs public participation and necessitates the filing of reconsideration petitions and/or applications for review, thereby creating even more delay and uncertainty. Accordingly, *UCC et al.* ask that the Commission direct the Media Bureau to provide such notice.

²⁸ *Fox Television Stations, Inc.*, 8 FCC Rcd. 5341 ¶1 (1993).

²⁹ *NPRM* ¶5.

³⁰ *Id.* at ¶3.

³¹ See FCC Forms 314, 315, available at <http://www.fcc.gov/formpage.html> (last visited May 10, 2005).

at the station or through the Commission's website.³² Including this information will ensure that the public receives an accurate description of the proposed sale without being overwhelmed with complex corporate details.

B. The Commission Should Require Stations Broadcasting In A Foreign Language To Give Notice In That Language

UCC *et al.* share the concern that neither the current rules nor the NPRM require notice to be given in languages other than English.³³ Broadcasters transmit a substantial amount of non-English programming in a myriad of languages. There are nearly 800 radio stations and at least 76 television stations that broadcast in a foreign language format.³⁴ In addition to these foreign-language stations, many stations broadcast at least a portion of their programming in a language other than English. For example, a 1995 study found that one in four public radio stations offered programming in a foreign language; in a sample of less than 600 stations, programming was broadcast in nearly 50 different languages.³⁵

As the above examples demonstrate, many stations broadcast—at least in part—in languages other than English. Therefore, the Commission should require that licensees give station sale notices in all languages in which the station broadcasts its regular programming.³⁶ Further, stations should be required to broadcast the notice in the language that the station is

³² Currently, the application is accessible through the FCC's CDBS website. However, if the Commission adopts UCC *et al.*'s proposal for a dedicated station sale website, the notice should refer people to that site. *See* Appendix.

³³ NPRM, Joint Statement of Commissioner Michael J. Copps and Commissioner Jonathan S. Adelstein.

³⁴ Broadcasting & Cable Yearbook 2005 at B-143 (television), D-698 to D-699 (radio). While the Broadcasting & Cable Yearbook lists all non-English language radio stations, *see id.* at D-698 to D-699, it lists only Spanish-language television stations, *see id.* at B-143.

³⁵ Thomas J. Thomas et al., *Public Radio Programming in Languages Other Than English*, available at <http://www.aranet.com/library/pdf/doc-0063.pdf> (last visited May 3, 2005).

³⁶ The Commission already has similar rules in place for broadcasting notice of renewal applications; "[s]tations broadcasting primarily in a foreign language" are required to broadcast notice in that language. 47 C.F.R. 73.3580(d)(4)(i) and (d)(4)(ii).

broadcasting at the time of the announcement. For example, a station that broadcasts in both Spanish and English should be required to broadcast the notice in Spanish during its Spanish broadcast and English during its English broadcast. Such a requirement would help ensure that all members of the community receive notice of the proposed station sale.

C. Licensees Should Broadcast Public Notice More Often To Maximize The Number Of Viewers Or Listeners Reached

In order to maximize the effectiveness of a station's public notice, UCC *et al.* propose two additional steps be taken by the Commission. First, the Commission should increase the number of public notice announcements that a licensee must broadcast when it applies to sell the station. Second, the Commission should adopt two specific notice "scripts" so that one notice can be given immediately and a second notice can be given when the deadlines for petitions to deny are established via the Commission's issuance of notice of its acceptance of the application.

The Commission's current rules require only that an applicant broadcast a station sale notice once a day for four days over one week,³⁷ making the public notice very easy to miss. To increase opportunities for listeners and viewers to learn of a proposed transfer, the Commission should significantly increase the number of broadcasts required. The Commission should require a licensee to broadcast notice four times a day each day from the filing of its application to the deadline for the filing of public comments. At least twice per day, the notice should be given at a time where the most viewers/listeners would be reached (*i.e.* "drive time" for radio and "prime time" for television).³⁸ Increasing the broadcast's frequency would raise the likelihood that all

³⁷ 47 C.F.R. §73.3580(d)(3)(i).

³⁸ This proposal is comparable to the current requirement that commercial radio stations broadcast notice between 7 a.m. and 9 a.m. and/or 4 p.m. and 6 p.m. and that commercial television stations broadcast notice between 6 p.m. and 11 p.m. 47 C.F.R. § 73.3580(d)(3)(i).

members of the local community would be informed about the proposed sale in time to file objections or petitions to deny with the Commission.

In addition, the notice should both begin immediately upon the application's filing and include the date on which petitions to deny are due, once that date is established. As the Commission points out, the challenge in accommodating both of these goals is that the date on which petitions to deny are due is calculated from the date of the application's acceptance by the Commission, which is typically released between three days and two weeks after the filing date.³⁹ Accordingly, UCC *et al.* propose that the Commission require two different notice announcements—one to be used between the time a licensee files an application for a station sale and the time that the Commission issues its notice of the application's acceptance, and one to be used after notice of acceptance is issued. The announcements would differ only in that the second announcement would include the date that petitions to deny are due. Such a requirement would help maximize the opportunity for the public to learn about and respond to a proposed station sale. Both notice announcements are included in the Appendix to these comments.⁴⁰

III. THE COMMISSION SHOULD STRENGTHEN ITS NON-BROADCAST NOTICE REQUIREMENTS

Broadcast notice is but one part of a comprehensive approach to promote public participation in the station sale process. The Commission should strengthen its current newspaper publication rules by limiting the types of stations that are exempted from its requirements. However, as newspaper publication alone may not reach all members of the public, the Commission should also require station sale applicants to post notice of the proposed sale on their website.

³⁹ *NPRM* ¶6.

⁴⁰ *See* Appendix.

A. The Commission Should Limit The Types Of Stations Exempted From Print Notification Requirements

The Commission's rule requiring that notice of a station sale be published in a local newspaper currently contains an exemption for non-commercial educational stations ("NCE stations") and stations that are the only operating station in their service ("sole source stations").⁴¹ This exemption was put in place over four decades ago due to concerns that such a requirement "would constitute an unwarranted expense" for these stations.⁴² The Commission has "tentatively conclude[d] that the current exemptions . . . are unwarranted," and thus has proposed removing the exemptions.⁴³ UCC *et al.* agree with the Commission that "the potential benefit of expanded public notice through newspaper publication far outweighs any expenses and other burdens,"⁴⁴ and therefore support the Commission's proposal.

The Commission should remove the newspaper publication exemption for sole source stations. As sole source stations are the only media outlet in a given service that members of the local public can turn to, a change in the ownership of a sole source station is almost certain to have dramatic effects on the local media market. For example, the public would have a substantial interest in a transaction where a sole service television station owned by a local broadcaster is being sold to an out-of-town broadcast chain. Given this, a sole source station should be required to give at least the same kind of public notice as other stations in more saturated markets.

The removal of the exemption for NCE stations is also appropriate. Sales of these stations—which are an important source of local news and informational programming—have

⁴¹ 47 C.F.R. § 73.3580(e).

⁴² See *NPRM* ¶4.

⁴³ *Id.* at ¶7.

⁴⁴ *Id.*

become more frequent recently, with some being sold to large, out-of-town broadcast chains. For example, Butler University recently announced that it was selling public television station WTBU to the Daystar Television Network, a religious broadcasting chain with over 40 stations nationwide.⁴⁵ Daystar also bought local public television station KDTN in Dallas, TX in 2003.⁴⁶ And in 2000, Buffalo, NY's local public broadcaster sold station WNEQ to LIN Television Corp, a Rhode Island-based broadcast chain that already owned Buffalo's CBS affiliate.⁴⁷

Moreover, these transactions generate substantial revenue for the station owners. WTBU, for example, sold for \$4 million,⁴⁸ KDTN sold for \$20 million,⁴⁹ and WNEQ sold for over \$26 million.⁵⁰ The price tags that attach to NCE station sales should allay any concern about the ability of NCE stations to afford the relatively minor costs associated with newspaper publication notice.⁵¹

⁴⁵ Steve Behrens, *Economics Move Some Educators To Sell Or Give Away Stations*, Current (Aug. 23, 2004), available at <http://www.current.org/pb/pb0415instit.shtml> (last visited May 4, 2005).

⁴⁶ Karen Everhart, *Dallas: Buyer Also Profits From Deal With KERA*, Current (Aug. 25, 2003), available at <http://www.current.org/ptv/ptv0315kdtn.shtml> (last visited May 4, 2005).

⁴⁷ *Buffalo Licensee Guarantees To Sell Channel 17, If Not Channel 23*, Current (Nov. 13, 2000), available at <http://www.current.org/ptv/ptv813s.html> (last visited May 4, 2005).

⁴⁸ Behrens, *supra* note 45.

⁴⁹ Everhart, *supra* note 46.

⁵⁰ *Buffalo Licensee Guarantees To Sell Channel 17, If Not Channel 23*, *supra* note 47.

⁵¹ In addition, the Commission should specify the required size of the newspaper notice. UCC *et al.* agree with the Commission that the publication notice rule is very important, as it “promot[es] public awareness of important application filings.” NPRM ¶7. However, UCC *et al.* are concerned that while the current newspaper publication rule specifies how often and in what kind of paper the notice must be published, 47 C.F.R. §73.3580(c), it is silent regarding the how prominent the notice must be or where it must appear. This allows licensees to run small notices in obscure sections of a local paper where members of the general public are unlikely to see them, eroding the notice's effectiveness. Accordingly, we suggest that the Commission consider a rule that specifies the size and location of the notice that licensees must give. Such a requirement would substantially increase the chance that the public would actually observe the newspaper notice, helping to ensure the notice requirement truly gives the public a “meaningful opportunity to participate in the license assignment process.” NPRM ¶3.

B. The Commission Should Require Stations To Post Notice Of Proposed Sale On Their Websites

An important adjunct to newspaper publication would be to prominently post the notice on the station website. Internet use is growing rapidly,⁵² making it an important complement to newspapers for effective communication with the public. Requiring notice to be posted on the station's website is an easy way for station owners to communicate information about a proposed station sale. Furthermore, unlike broadcast and print announcements, which are only effective if a person is viewing, listening, or reading at the right moment, the website notice is constantly available, and thus would likely increase the probability that local citizens would see the announcement.⁵³

Accordingly, the Commission should require stations that have websites to post notice of the proposed sale on those sites. The notice should be posted in a conspicuous position—in readable font somewhere on the part of the webpage that a viewer sees immediately upon accessing the site. Moreover, the notice announcement should contain the same language that must be broadcast and published, and should contain an “active link” to the Commission's new

⁵² See, e.g., Pew Internet & American Life Project, *Internet: The Mainstreaming of Online Life* (2005), available at http://www.pewinternet.org/pdfs/Internet_Status_2005.pdf. This report notes that in 2004, 70 million adult Americans accessed the Internet on a “typical day,” up from 54 million just 4 years prior. However, we wish to make clear that the internet notice requirement should be a supplement to, not a replacement for, the newspaper publication requirement. Newspaper publication remains important, as not all citizens have access to the internet. See, e.g., Pew Internet & American Life Project, *Rural Areas and the Internet* (2004), available at http://www.pewinternet.org/pdfs/PIP_Rural_Report.pdf (noting that only 52% of rural residents have access to the internet); Pew Internet & American Life Project, *Older Americans and the Internet* (2004), available at http://www.pewinternet.org/pdfs/PIP_Seniors_Online_2004.pdf (noting that only 22% of seniors have access to the internet).

⁵³ Such a requirement would not be unprecedented—the Commission currently requires broadcast stations to post equal employment opportunity (EEO) information on their websites. 47 C.F.R. §73.2080(c)(6).

station sale information website so that viewers can easily click-through to the Commission's site to view the application and file comments and/or objections.

IV. THE COMMISSION SHOULD EXTEND ITS MODIFIED PUBLIC NOTICE RULES TO APPLICANTS FOR NEW CONSTRUCTION PERMITS AND BROADCAST LICENSE RENEWALS

While strengthening the public notice requirements for applications for station sales is an important step towards more fully engaging the public in the broadcast licensing discussion, it is only one component of a larger issue. Section 73.3580 contains the public notice requirements governing "all applications for instruments of authorization in the broadcast service,"⁵⁴ thus any effective modification of the rules should apply to all major applications. Accordingly, UCC *et al.* recommend that "the notice that new construction permit applicants are required to provide to the public . . . conform to the notice requirements" that govern applicants for station sale.⁵⁵

Further, the Commission should extend certain modifications of its notice rules to applicants for broadcast license renewals. While current rules recite the specific text that renewal applicants must use, this text does not provide the same comprehensive information proposed in these Comments.⁵⁶ Specifically, the Commission should revise the text that applicants for license renewal must use to include language about how members of the public can access applications online and file comments or objections, as well as language about whether the proposed buyer is local, whether the proposed buyer owns other media outlets in the community, whether the buyer is requesting a waiver, and what specific information the Commission is seeking.⁵⁷ Assuming the Commission adopts UCC *et al.*'s suggestion to create a station sale website, that site should also include information on applications for license renewal,

⁵⁴ 47 C.F.R. §73.3580(a).

⁵⁵ NPRM ¶5.

⁵⁶ See 47 C.F.R. §73.3580(d)(4).

⁵⁷ See *infra* Part II.A.

applications for station sale, and applications for new construction permits. Additionally, while applicants for license renewal that broadcast “primarily in a foreign language” are already required to broadcast notice in that language,⁵⁸ any improvements to this requirement for applicants for station sale should be extended to applicants for license renewal. Finally, the Commission should increase the frequency with which applicants for license renewal must broadcast notice, from the current requirement of twice a month for the six months prior to the expiration of the license⁵⁹ to at least once a week. These changes would allow the entire licensing process to be more transparent, truly “ensur[ing] that viewers and listeners will have a meaningful opportunity to participate.”⁶⁰

⁵⁸ See 47 C.F.R. §§73.3580(d)(4)(i) and (d)(4)(ii).

⁵⁹ *Id.*

⁶⁰ *NPRM* ¶3.

CONCLUSION

For the foregoing reasons, UCC *et al.* strongly support the Commission's efforts to strengthen its public notice requirements. However, the Commission should go further and establish a system of public notice that will not just allow, but will truly encourage, the public to engage in all aspects of the licensing process.

Respectfully Submitted,

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APPENDIX

I. Public Notice Language If Commission Develops Station Sale Website

Language to be used between filing application and Commission's public notice of acceptance:

(Insert name of assignor or transferor here), whose parent company is (insert name of parent company), plans to sell (call sign) to (insert name of assignee or transferee here), whose parent company is (insert name of parent company here). (Insert name of assignee or transferee here) is headquartered in (city, state), and currently owns (other broadcast stations, cable interests, or newspapers in the local community owned by the assignee or transferee). (Name of assignee) has asked the FCC to waive its ownership rules forbidding (insert brief description of rule to be waived. i.e. duopoly, newspaper-broadcast cross-ownership, etc.) to allow this transaction to take place.⁶¹

A copy of the application, which contains additional information about the proposed buyer, is available online at [FCC's station sale website address]. The application will also be available during (call sign)'s regular business hours at (address of location of the station's public inspection file).

Members of the public residing in the (viewing/listening) area of this station have the right to express to the FCC their view on whether this sale is in the public interest, and may do so by filing an informal objection or a formal objection, known as a petition to deny. For more information about how to file, visit [station sale web address]. Written comments or objections should be sent to the FCC at 445 12th Street SW, Washington, DC 20054.

Language to be used after Commission's public notice of acceptance:

(Insert name of assignor or transferor here), whose parent company is (insert name of parent company), plans to sell (call sign) to (insert name of assignee or transferee here), whose parent company is (insert name of parent company here). (Insert name of assignee or transferee here) is headquartered in (city, state), and currently owns (other broadcast stations, cable stations, or newspapers in the local community owned by the assignee or transferee). (Name of assignee) has asked the FCC to waive its ownership rules forbidding (insert brief description of rule to be waived. i.e. duopoly, newspaper-broadcast cross-ownership, etc.) to allow this transaction to take place.

A copy of the application, which contains additional information about the proposed buyer, is available online at [FCC's station sale website address]. The application will also be available during (call sign)'s regular business hours at (address of location of the station's public inspection file).

Members of the public residing in the (viewing/listening) area of this station have the right to express to the FCC their view on whether this sale is in the public interest, and may do so by filing an informal objection or a formal objection, known as a petition to deny. Petitions to deny the application must be filed no later than (date the 30th day after issuance of the public notice of

⁶¹ Parties with no parent company, no other media holdings in the community, and/or no waiver request would omit the relevant language in their announcement.

the acceptance for filing of the application). For more information about how to file, visit [station sale web address]. Written comments or objections should be sent to the FCC at 445 12th Street SW, Washington, DC 20054.

